

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

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Paper No. 92

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MICHEL PIERFITTE and PIERRE DELORME,

Junior Party,

v.

HORACE HINES, PAUL HUG, and MARK L. LAMP,

Junior Party,

v.

DOV MAOR,

Junior Party,

v.

KAI LANGE,

Senior Party.

Patent Interference No. 103,805

Before McKELVEY, Senior Administrative Patent Judge, and LEE
and GARDNER-LANE, Administrative Patent Judges.

LEE, Administrative Patent Judge.

Interference No. 103,805
Pierfitte v. Hines v. Maor v. Lange

MEMORANDUM OPINION AND JUDGMENT

This interference involves four parties, junior party Pierfitte, junior party Hines, junior party Maor, and senior party Lange. Junior party Pierfitte is involved on the basis of its application 07/894,359, filed June 4, 1992, which has been accorded the benefit of French application 91-06962, filed June 7, 1991. Junior party Hines is involved on the basis of its application 07/704,759, filed on May 23, 1991. Junior party Maor is involved on the basis of its application 07/998,771, filed December 29, 1992, which has been accorded the benefit of application 07/755,649, filed September 6, 1991, and Israeli application 96578, filed December 6, 1990. Senior party Lange is involved on the basis of its application 08/150,020, filed November 8, 1993, which has been accorded the benefit of PCT application EP91/02045, filed October 23, 1991, and Denmark application 2577/90, filed October 26, 1990.

The involved applications of parties Maor and Lange are now owned by a common assignee, the General Electric Company. The involved application of junior party Pierfitte is owned by SMV International, and the involved application of junior party Hines is ADAC Laboratories.

In a communication dated August 15, 2000, the common assignee of parties Maor and Lange elected senior party Lange as the party entitled to priority between parties Maor and Lange. (Paper No. 89). In a telephone conference conducted on August 14, 2000, between administrative patent judge Lee and respective counsel for the parties, junior party Pierfitte represented that because it has not alleged a date in the preliminary statement that is prior to the senior party's accorded benefit date, it is not entitled to priority and only awaits entry of adverse judgment at the conclusion of this interference when priority between the other parties is resolved.

On August 15, 2000, senior party Lange filed a miscellaneous motion for entry of judgment against the other parties. With regard to junior party Hines, the motion alleges that based on representations made in party Hines' preliminary statement about when the invention was first disclosed to another person (mid-November 1990), party Hines cannot prove a corroborated conception prior to mid-November 1990, which is subsequent to party Lange's accorded benefit date of October 26, 1990.

Lange's motion for judgment indicates that the substance of the motion was discussed with counsel for parties Hines and Pierfitte and that counsel for parties Hines and Pierfitte have stated that they will not oppose this motion for judgment. In a telephone conference conducted on August 17, 2000, at approximately 10:30 AM between administrative patent judge Lee and respective counsel for the parties, counsel for Pierfitte and counsel for Hines confirmed that they do not oppose party Lange's motion for judgment.

In the telephone conference of August 17, 2000, judge Lee informed the parties that the lack of opposition to Lange's motion for judgment indicates intent by parties Pierfitte and Hines to concede priority, and that if so, a concession of priority or request for entry of adverse judgment should be filed. Parties Pierfitte and Hines agreed to file by facsimile such a paper that day.

On August 17, 2000, junior party Hines filed by facsimile a request for entry of adverse judgment and junior party Pierfitte also filed by facsimile a request for entry of adverse judgment.

Both requests for entry of adverse judgment are granted.

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Senior party Lange's motion for judgment is **dismissed** as moot.

Entry of adverse judgment against all three junior parties is now appropriate. It is

Judgment

ORDERED that judgment as to the subject matter of Count 1A is awarded against junior party MICHEL PIERFITTE and PIERRE DELORME;

FURTHER ORDERED that judgment as to the subject matter of Count 1A is awarded against junior party HORACE HINES, PAUL HUG, and MARK L. LAMP;

FURTHER ORDERED that judgment as to the subject matter of Count 1A is awarded against junior party DOV MAOR;

FURTHER ORDERED that Michel Pierfitte and Pierre Delorme are not entitled to their application claims 15 and 16 which correspond to Count 1A;

FURTHER ORDERED that Horace Hines, Paul Hug, and Mark L. Lamp are not entitled to their application claims 10, 11, 21-24, 26 and 28-31, which correspond to Count 1A;

FURTHER ORDERED that Dov Maor is not entitled to his or her application claims 22, 25, 26, 28-31, 33, 34, 36-39, 41, 42, and 57, which correspond to Count 1A; and

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FURTHER ORDERED that on this record, senior party KAI
LANGE is entitled to a patent containing his or her
application claims 13 and 14 which correspond to Count 1A.

_____)	
Fred E. McKelvey, Senior)	
Administrative Patent Judge))	
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)	BOARD OF PATENT
)	APPEALS
_____)	
Jameson Lee)	AND
Administrative Patent Judge))	INTERFERENCES
)	
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_____)	
Sally Gardner-Lane)	
Administrative Patent Judge))	

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By Federal Express

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